

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 MIKE YELLEN,

11 Plaintiff,

No. CIV S-94-1298 GEB DAD P

12 vs.

13 ANA M. OLIVAREZ, et al.,

14 Defendants.

ORDER

15 \_\_\_\_\_/  
16 Plaintiff is a former state prisoner proceeding pro se with a civil rights action  
17 pursuant to 42 U.S.C. § 1983. Plaintiff claims that his rights under the Eighth Amendment were  
18 violated during his incarceration at Deuel Vocational Institution (DVI) through exposure to  
19 contaminated water that was both unsafe to drink and unsanitary for bathing, cooking and  
20 maintaining oral hygiene. Specifically, plaintiff alleges that the water at DVI was unfit for  
21 human consumption, that the DVI plumbing is archaic, that DVI employees had been instructed  
22 not to drink the water, and that the faucet water in his cell looked like mud and had a putrid odor.  
23 Plaintiff claims that the water caused him to vomit, and that he is subject to future health risks  
24 due to his exposure to the contaminated water. Plaintiff seeks both money damages and

25 /////

26 /////

1 injunctive relief.<sup>1</sup>

2           The record reflects that plaintiff was paroled from the state prison system in 2004,  
3 see Order filed April 11, 2005, and there is no suggestion in the record that plaintiff has been  
4 reincarcerated. Plaintiff's last filing in this action was in January 2007. As noted in the court's  
5 December 20, 2010 findings and recommendations, there is a defense motion for summary  
6 judgment still pending before . Good cause appearing, plaintiff will be directed to inform the  
7 court in writing within ten days whether he intends to prosecute this action further. Failure to  
8 respond to this order will result in a recommendation that this action be dismissed.

9           In accordance with the above, IT IS HEREBY ORDERED that within ten days  
10 from the date of this order plaintiff shall inform the court in writing whether he intends to  
11 prosecute this action further. Failure to respond to this order will result in a recommendation that  
12 this action be dismissed. See Local Rule 110; Fed. R. Civ. P. 41(b).

13 DATED: January 7, 2011.

14  
15   
16 \_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

17  
18 DAD:12  
19 yell1298.o  
20  
21  
22  
23  
24

---

25           <sup>1</sup> On December 20, 2010, this court issued findings and recommendations recommending  
26 dismissal of plaintiff's request for injunctive relief. Those findings and recommendations, to  
which no objections have been interposed, are now before the district court.